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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,708	01/29/2004	Fred J. Roska	58331US003	5664

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EXAMINER	
TON, MINH TOAN T	

ART UNIT	PAPER NUMBER
2871	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/767,708	ROSKA ET AL.	
	Examiner	Art Unit	
	Toan Ton	2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09/23/05*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over all pending claims of copending Application No. 10/365332. Although the conflicting claims are not identical, they are not patentably distinct from each other because both comprising an optical film comprising a layer of simultaneous biaxially stretched polyolefin film being substantially non-absorbing and non-scattering for at least one polarization state of visible light; and having x, y, and z orthogonal

indices of refraction wherein at least two of the orthogonal indices of refraction are not equal, an in-plane retardance being 100 nm or less and an out-of-plane retardance being 50 nm or greater.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over all pending claims of copending Application No. 10/364940. Although the conflicting claims are not identical, they are not patentably distinct from each other because both comprising an optical film comprising a layer of simultaneous biaxially stretched polyolefin film being substantially non-absorbing and non-scattering for at least one polarization state of visible light; and having x, y, and z orthogonal indices of refraction wherein at least two of the orthogonal indices of refraction are not equal, an in-plane retardance being 100 nm or less and an out-of-plane retardance being 50 nm or greater.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over all pending claims of copending Application No. 10/770604. Although the conflicting claims are not identical, they are not patentably distinct from each other because both comprising an optical film comprising a layer of simultaneous biaxially stretched polyolefin film being substantially non-absorbing and non-scattering for at least one polarization state of visible light; and having x, y, and z orthogonal

indices of refraction wherein at least two of the orthogonal indices of refraction are not equal, an in-plane retardance being 100 nm or less and an out-of-plane retardance being 50 nm or greater.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-23 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-40 of U.S. Patent No. 6,965,474. Although the conflicting claims are not identical, they are not patentably distinct from each other because both comprise common and overlapping subject matter such as an optical film comprising a layer of simultaneous biaxially stretched polyolefin film being substantially non-absorbing and non-scattering for at least one polarization state of visible light; and having x, y, and z orthogonal indices of refraction wherein at least two of the orthogonal indices of refraction are not equal, an in-plane retardance being 100 nm or less and an out-of-plane retardance being 50 nm or greater.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-4, 6-7, 10-13,15-16 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 665690) in view of Hebrink (US 6673425).

Hashimoto discloses a liquid crystal display device comprising (see at least Figure 1): a liquid crystal layer 6; a j-retarder (disposed on the liquid crystal layer; the j-retarder comprising a simultaneous biaxially stretched polymeric film being substantially non-absorbing and non-scattering for at least one polarization state of visible light; and having x, y, and z orthogonal indices of refraction wherein at least two of the orthogonal indices of refraction are not equal (see at least col. 11, lines 65-67), an in-plane retardance being 100 nm or less (see at least col. 7, lines 46-52 and col. 9, lines 16-20), noted that overlapping ranges have been held as at least obvious) and an absolute value of an out-of-plane retardance being 55 nm or greater (see at least col. 7, line 46-52 and col. 9, lines 16-20, noted that overlapping ranges have been held as at least obvious).

The limitation not explicitly disclosed by Hashimoto includes a crystallization modifier comprising materials such as non-cyclic polyolefin polymer.

Hebrink discloses the use of materials such as polyolefin polymer yielding advantages such as improved clarity, improved adhesion. Therefore, it would have been at least obvious to one of ordinary skill in the art at the time the invention was made to employ a crystallization modifier comprising materials such as non-cyclic polyolefin polymer for yielding advantages such as improved clarity, improved adhesion.

Peiffer discloses the use of materials such as polypropylene yielding advantages such as improved clarity, improved adhesion. Therefore, it would have been at least obvious to one of ordinary skill in the art at the time the invention was made to employ a crystallization modifier comprising materials such as non-cyclic polyolefin polymer for yielding advantages such as improved clarity, improved adhesion.

Hashimoto discloses the LCD device comprising a polarizer 2a/2b disposed on the retarder.

The use of an additional liquid crystal layer is common and known in the art for advantages such as different switching modes, i.e., swapping background color. Therefore, it would have been obvious to one of ordinary skill in the art to employ an additional liquid crystal layer, as common and known in the art, for advantages such as different switching modes, i.e., swapping background color.

4. Claims 5, 8-9, 14, 7-18 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto in view of Hebrink as applied to claims 1-4, 6-7, 10-13, 15-16 and 19-21 above, and further in view of Broer et al (US 6359670).

Broer teaches the use of a reflecting polarizer disposed on the exterior surface of a polarizer in an LCD device yields advantages such as achieve optimum reflection of light. Therefore, it would have been obvious to one of ordinary skill in the art to employ a reflecting polarizer (so as the absorbing polarizer layer is disposed between the liquid crystal layer/retarder layer and the reflective polarizer layer) for achieving advantages such as optimum reflection of light.

Response to Arguments

5. Applicant's arguments with respect to all amended claims and newly-added claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan Ton whose telephone number is (571) 272-2303.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 12, 2005

TOAN TON
PRIMARY EXAMINER